

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 PQ LABS, INC., et al.,

No. C 12-450 CW

5 Plaintiffs,

ORDER ON MOTIONS
TO SEAL (Docket
Nos. 92, 150, 158,
164, 176, 179,
186)

6 v.

7 YANG QI, et al.,

8 Defendants.

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10 Before the Court are numerous administrative motions to seal
11 filed by multiple parties.

12 Under Civil Local Rule 79-5, a document may be filed under
13 seal only if a party establishes that the portions sought to be
14 sealed "are privileged, protectable as a trade secret or otherwise
15 entitled to protection under the law." Civ. L.R. 79-5(b). Any
16 sealing request must be narrowly tailored to cover only sealable
17 material. Id. The request must be supported by the designating
18 party's declaration establishing that the information is sealable.
19 Id. subsection (d).

20 "Historically, courts have recognized a 'general right to
21 inspect and copy public records and documents, including judicial
22 records and documents.'" Kamakana v. City & Cnty. of Honolulu,
23 447 F.3d 1172, 1178 (9th Cir. 2006). In considering a sealing
24 request, the Court begins with "a strong presumption of access
25 [as] the starting point." Id.

26 A party seeking to seal records attached to a dispositive
27 motion bears the burden of establishing "compelling reasons
28 supported by specific factual findings that outweigh the general

1 history of access and the public policies favoring disclosure."
2 Id. at 1178-79. This is because dispositive motions represent
3 "the heart of the interest in ensuring the public's understanding
4 of the judicial process and of significant public events." Id. at
5 1179.

6 The strong presumption in favor of access does not apply with
7 equal force to non-dispositive motions, which may be only
8 "tangentially related" to the underlying cause of action. Id. at
9 1179-80. A party seeking to seal materials related to non-
10 dispositive motions must show good cause by making a
11 "particularized showing" that "specific prejudice or harm will
12 result" should the information be disclosed. Id.; Fed. R. Civ. P.
13 26(c). "[B]road, conclusory allegations of potential harm" will
14 not suffice. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d
15 1122, 1131 (9th Cir. 2003).

16 The Court provides the following rulings on the parties'
17 motions to seal, as articulated in the table below.

Docket No.	Ruling
92	PQ Labs moves to seal Exhibits A-F to the declaration of Andrew Wolfe, Ph.D., in support of PQ Labs' opposition to the Defendants' motion for summary judgment. The motion is DENIED. With regard to Exhibits A and B, which consist entirely of design cache displays from the PQ Labs PQ9131 schematic and the Zaagtech GodFace V1.0 XEM schematic, PQ Labs does not

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1	explain how merely revealing the file 2 names displayed in these exhibits would 3 reveal trade secrets. With regard to 4 Exhibits C-F, the request is not narrowly 5 tailored to cover only the information 6 for which there are compelling reasons to 7 keep under seal. The exhibits are not 8 sealable in full; only portions revealing 9 trade secrets, such as the schematics 10 themselves, may be sealed. PQ Labs may 11 resubmit a modified and narrowly tailored 12 version of this sealing request no later 13 than seven days from the date of this 14 order. If it does not do so, the 15 documents will be filed in the public 16 record.
17 150	Defendants move to seal portions of 18 Exhibit A and the entirety of Exhibits G 19 and H to the declaration of Perry J. 20 Narancic in support of Defendants' motion 21 to exclude the report and testimony of 22 Mark P. Berkman. The motion is GRANTED 23 because the materials are related to a 24 non-dispositive motion, and because 25 Defendants limit their request to only 26 trade secret or other confidential 27 information.

1	158	Defendants move to seal certain documents 2 that were attached to their Trial Exhibit 3 391. Those documents contain schematic 4 illustrations and technical 5 specifications of Plaintiffs' products, 6 the publication of which would reveal 7 trade secrets. The motion is GRANTED 8 because Defendants limit their request to 9 trade secret information.
10	164	Plaintiffs move to seal portions of 11 Exhibit A to the declaration of Steven A. 12 Ellenberg in support of their first and 13 third motions in limine, by which 14 Plaintiffs sought to exclude certain 15 testimony of Defendants' expert Sandeep 16 Chatterjee. ¹ The motion is GRANTED 17 because the materials are in support of a 18 non-dispositive motion, and because 19 Plaintiffs limit their request to only 20 trade secret or other confidential 21 information.

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23 ¹ Plaintiffs previously moved to seal Exhibit A in its
24 entirety. (Docket No. 119). The Court denied that motion, which
25 was not narrowly tailored as required by Local Rule 79-5. Order
26 (Docket No. 139). Plaintiffs then sought to seal only parts of
27 Exhibit A. Renewed Mot. (Docket No. 145). The Court found good
28 cause to seal most of the information that Plaintiffs sought to
redact, but again found that the request was not sufficiently
narrowly tailored, and granted the motion only in part. (Docket
No. 157).

176	Plaintiffs move to seal Paragraph 31 of their Proposed Findings of Fact and Conclusions of Law, which identifies the specific trade secrets at issue in this lawsuit. The motion is GRANTED because Plaintiffs limit their request to trade secret information.
179	Plaintiffs move (1) to seal from the public record, by redaction, certain parts of the Reporter's Transcript of the trial proceedings on March 10 and March 11, 2014, which concern Plaintiffs' trade secrets; and (2) to seal certain trial exhibits ² which were admitted into evidence on March 10 and 11, 2014, and which contain trade secrets, pricing and customer data, and other confidential information. The motion is GRANTED because Plaintiffs limit their request only to trade secret or other confidential information.
186	Plaintiffs move to seal Paragraphs 20 and 27 of their reply to Defendants' Proposed Findings of Fact and Conclusions of Law, which discuss the specific trade secrets

² Plaintiffs seek to seal the following exhibits: Plaintiffs' TE 22-26, 30, 37, 132-135, 137-138, and 141-147.

1 at issue in this lawsuit. Although the
2 specific redactions identified in Docket
3 No. 186-3 appear to be proper, the Court
4 observes that certain sentences from the
5 unredacted version appear neither in the
6 text of the redacted version, nor as
7 redactions. Compare Docket No. 186-3, ¶
8 27, with Docket No. 186-4, ¶ 27 (filed
9 under seal). For this reason, the motion
10 is DENIED. Plaintiffs may resubmit a
11 modified and narrowly tailored version of
12 this sealing request no later than seven
13 days from the date of this order. If
14 they do not do so, the documents will be
15 filed in the public record.

16 CONCLUSION

17 For the reasons set forth above, PQ Labs's Administrative
18 Motion to File Under Seal (Docket No. 92) is DENIED, with leave to
19 resubmit within seven days from the date of this order;
20 Defendants' Administrative Motions to File Under Seal (Docket Nos.
21 150, 158) are GRANTED; Plaintiffs' Second Renewed Administrative
22 Motion to File Under Seal (Docket No. 164) is GRANTED; Plaintiffs'
23 Administrative Motions to File Under Seal (Docket Nos. 176, 179)
24 are GRANTED; and Plaintiffs' Administrative Motion to File Under
25 Seal (Docket No. 186) is DENIED, with leave to resubmit within
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1 seven days from the date of this order.

2 IT IS SO ORDERED.

3 Dated: 9/15/2014


CLAUDIA WILKEN
United States District Judge